



U.S. DEPARTMENT of STATE

Portugal

Country Reports on Human Rights Practices - [2004](#)

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Portugal is a constitutional democracy with a president, a prime minister, and a parliament elected by secret ballot in multiparty elections. National parliamentary elections were held in 2002. The ruling coalition party consists of the Social Democrat Party (PSD) and the Christian Democrat/People's Party (CDS/PP). The judiciary is independent.

Internal security is primarily the responsibility of the Ministries of Justice and Internal Administration. The Republican National Guard (GNR) has jurisdiction outside cities, and the Public Security Police (PSP) has jurisdiction in cities. The Aliens and Borders Service (SEF) has jurisdiction on immigration and border issues. The civilian authorities maintained effective control of the security forces. Some members of the security forces committed a number of human rights abuses.

The country had a market-based economy and a population of approximately 10.4 million. The service sector was the leading source of employment, while employment in agriculture and industry continued to be static or declined. Manufacturing provided approximately 30 percent of total economic output. The rate of economic growth was negative 1.3 percent in 2003 and 1.0 percent during the year. Wages and benefits have kept pace with inflation.

The Government generally respected the human rights of its citizens; however, there were problems in some areas. Police and prison guards beat and otherwise abused detainees. Prison conditions remained poor. Lengthy pretrial and preventive detention remained a problem. Trafficking in foreign laborers and women also was a problem.

RESPECT FOR HUMAN RIGHTS

Section 1

Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life

There were no reports of the arbitrary or unlawful deprivation of life committed by the Government or its agents.

b. Disappearance

There were no reports of politically motivated disappearances.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

The Constitution prohibits such practices; however, there were infrequent but credible reports that police and prison guards beat and otherwise abused detainees.

The Government investigated reports of police mistreatment (see Section 1.d.). According to its annual activity report, the Inspectorate General of Internal Administration (IGAI) investigated new incidents involving law enforcement agents during 2003.

During the year, due to a lack of sufficient evidence, the IGAI closed the case against three PSP officers who allegedly beat Aizhong Lin in 2002.

Prison conditions remained poor, and guards mistreated prisoners. Other problems included overcrowding, inadequate facilities, poor health conditions, and violence among inmates. According to the General Directorate for Prison Services (DGSP), there were 13,312 persons in prison in early December. According to the DGSP, the overcrowding rate was 4.1 percent, representing a marked improvement over the 13.24 percent in 2003.

In February, a commission to study a reform of the prison system submitted its report to the Government. The commission drafted general guidelines and legislative proposals on the reform of the prison system. In June, the Government approved the proposals but had not implemented them by year's end.

Approximately 30 percent of the prison population had Hepatitis B or C, and 14 percent were HIV-positive. According to the Ministry of Justice, 42 persons died in prisons during the first 5 months of the year, one third of these while under preventive detention.

During the European soccer championships in June and July, two English visitors made claims of police brutality upon their return to the United Kingdom; however, media footage of the GNR actions, which were supported and assisted by British police, indicated appropriate use of force.

Men and women were held separately. Although there was a youth prison in Leiria, at times, juveniles were held with adults elsewhere in the prison system. Pretrial detainees were held with convicted criminals.

The Government permitted visits by independent human rights observers during the year.

d. Arbitrary Arrest or Detention

The Constitution prohibits arbitrary arrest and detention, and the Government generally observed these prohibitions.

The Ministries of Justice and Internal Administration are primarily responsible for internal security. The major problems with the police forces were understaffing and inconsistent or weak law enforcement. There were approximately 50,000 law enforcement officials in the country. In October, 18 of 35 defendants accused of corruption within the GNR Traffic Department (BT) were sentenced to 18 months' to 3 years' imprisonment by a court in the Algarve. Ten of the jailed defendants were traffic police, while the remaining eight were businessmen. The court acquitted of all charges the remaining 17 defendants, 14 of whom were BT officers. There were no indications that corruption was a widespread problem. During the year, police officers received extensive professional training, and the Government regulated their actions through mechanisms established by law.

The IGAI investigated the 2003 killings by GNR agents and PSP officers and determined that PSP officers acted appropriately in the 2003 killing of Osvaldo Vaz. The IGAI found that the PSP officer who killed Nuno Lucas in Porto in 2002 acted inappropriately, and, in January, the Minister of the Interior discharged the officer from the force. They also determined that the PSP officer who killed Antonio Tavares Pereira in Setubal in 2002 acted inappropriately, and the officer was suspended for 225 days. In March, the trial of the officer for aggravated homicide in Setubal ended in an acquittal. The officer claimed that, at the time of the shooting, he was not aware that rubber bullets could kill, and had not been trained in the use of the rubber bullet shotgun with which he killed Antonio Tavares Pereira. The PSP National Director reportedly stated that there were no guidelines regarding the use of rubber bullets at the time of the killing.

An independent ombudsman is chosen by the Parliament and the IGAI to investigate complaints of mistreatment by the police; however, nongovernmental organizations (NGOs) have criticized the slow pace of investigations.

The law provides detailed guidelines covering all aspects of arrest and custody. Under the law, an investigating judge determines whether an arrested person should be detained, released on bail, or released outright. A person may not be held for more than 48 hours without appearing before an investigating judge. Investigative detention is limited to a maximum of 6 months for each suspected crime. If a formal charge is not filed within that period, the detainee must be released. In cases of serious crimes such as murder or armed robbery, or of those involving more than one suspect, investigative detention may last for up to 2 years and may be extended by a judge to 3 years in extraordinary circumstances. A suspect in investigative detention must be brought to trial within 18 months of being charged formally. If a suspect is not in detention, there is no specified period for going to trial. A detainee has access to lawyers, and the Government assumes the cost if necessary.

During the year, prisoners went on hunger strikes to protest, among other things, prolonged periods of pretrial detention. The average number of prisoners returned to custody by court order ("remand") was high. By year's end, 3,366 individuals (24.1 percent of the prison population) were in "preventive detention." Pretrial detainees remained in prison under this status for an average of 26 months, and up to 6 years. Judges argued that pretrial detention was justified by the high incidence of recidivism. The Government implemented the use of an electronic monitoring device as an alternative to preventive detention, with 253 detainees participating in the program at year's end.

e. Denial of Fair Public Trial

The Constitution provides for an independent judiciary, and the Government generally respected this provision in practice.

The court system, provided for in the Constitution, consists of a Constitutional Court, a Supreme Court of Justice, and judicial courts of first and second instance. There is also a Supreme Court of Administration, which handles administrative and tax disputes and is supported by lower administrative courts. There is an audit court in the Ministry of Finance.

The Constitution provides for the right to a fair trial, and an independent judiciary generally enforced this right.

There were more than 500 courts in the country, and approximately 3,000 magistrates and judges; however, staff shortages and court delays continued to be a serious problem.

Critics pointed to a large backlog of pending trials resulting from the inefficient functioning of the courts. A study by the Permanent Observatory of Justice (OPJ), released in 2003, reported that the average length of a "first instance" judicial process was 912 days, with 14.7 percent of the processes taking over 5 years.

There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence

The Constitution prohibits such actions, and the Government generally respected these prohibitions in practice.

Section 2

Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The Constitution provides for freedom of speech and of the press, and the Government generally respected these rights in practice and did not restrict academic freedom. An independent press, an effective judiciary, and a functioning democratic political system combined to ensure freedom of speech and of the press.

b. Freedom of Peaceful Assembly and Association

The law provides for freedom of assembly and association, and the Government generally respected these rights in practice.

c. Freedom of Religion

The Constitution provides for freedom of religion, and the Government generally respected this right in practice.

The Roman Catholic Church is the dominant religion. Although the overwhelming majority of citizens are Roman Catholic, other religions, including Islam, Protestant Christian denominations, Judaism, and Eastern Orthodox, were practiced freely.

The Religious Freedom Act created a legislative framework for religions established in the country for at least 30 years, or recognized internationally for at least 60 years. The Act, which was implemented, provides other qualifying religions with benefits previously reserved for the Catholic Church: Full tax exempt status; legal recognition for marriage and other rites; chaplain visits to prisons and hospitals; and respect for traditional holidays. In December 2003, enabling rules were enacted for governing the commission that will supervise implementation of the Act; however, some rules are still needed to create a registry of religious entities.

The Catholic Church maintains a separate agreement with the Government under the terms of the 1940 Concordat. On May 18, to comply constitutionally with the Religious Freedom Act, the Government negotiated with the Vatican and signed a new amended Concordat. By year's end, the new Concordat was approved by Parliament and the President.

There were no incidents of anti-Semitism. Government efforts to promote anti-bias and tolerance education included the President's participation on September 9 in a ceremony commemorating the Lisbon synagogue's 100th anniversary. The synagogue itself was refurbished, in part with government funds.

For a more detailed discussion, see the 2004 International Religious Freedom Report.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation

The Constitution and laws provide for these rights, and the Government generally respected them in practice.

The law prohibits forced exile, and the Government did not employ it.

The law provides for the granting of asylum or refugee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees or its 1967 Protocol, and the Government has established a system for providing protection to refugees. In practice, the Government provided protection against refoulement, the return of persons to a country where they feared persecution. The Government granted refugee status or asylum. The Government cooperated with the office of the U.N. High

Commissioner for Refugees and other humanitarian organizations in assisting refugees and asylum seekers.

The Government also provided temporary protection to individuals who may not qualify as refugees under the 1951 Convention/1967 Protocol and provided it in seven individual cases during the year. The total refugee population in the country was 284. During the year, 120 individuals and families, primarily from Central and Eastern European and African countries, filed asylum applications. Of the 120 applicants, 9 were granted refugee status, 7 were granted "humanitarian protection" residence permits, 2 were granted asylum under the statutes of the Geneva Convention, 62 were denied relief, and 40 were awaiting a determination.

Section 3

Respect for Political Rights: The Right of Citizens to Change Their Government

The Constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections on the basis of universal suffrage. The country is a multiparty parliamentary democracy. The ruling coalition party was made up of the PSD and the CDS/PP. The President was Jorge Sampaio of the Socialist Party.

During the year, Prime Minister Durao Barroso, who had been elected in 2002 national elections, resigned to accept the nomination as president of the European Commission. President Sampaio selected Pedro Santana Lopes to succeed Barroso as Prime Minister and to form a new government. The Constitution allows Sampaio to call for new elections, but he declined, citing institutional continuity based on the results of the 2002 elections; however, on December 10, Sampaio changed his mind and decided to dissolve Parliament and call for national elections in February 2005.

The law provides for public access to government information, and the Government provided it in practice.

There were 47 women in the 230-member Parliament. There were three women in the Cabinet--the Ministers of Education, Science/Higher Education, and Culture. Five women held state secretary positions, which are one rank below cabinet ministers.

There were no minorities in the Parliament or in the Cabinet.

Section 4 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were cooperative and responsive to their views; however, most groups complained of slow investigations or remedial actions.

Section 5

Discrimination, Societal Abuses, and Trafficking in Persons

The Constitution prohibits discrimination based on ancestry, gender, language, origin, political or ideological convictions, education, economic situation, or social condition; however, some discrimination against women and ethnic minorities persisted.

Women

Domestic and other violence against women was a problem. The Association for Victim Support (APAV), a nonprofit charitable organization that provided confidential and free services to victims of any type of crime nationwide, received 7,515 requests for assistance via its toll free hotline and at its offices in 13 cities during the year. The individuals seeking help (nearly 86 percent of whom were women) reported 13,511 crimes, more than 80 percent involving domestic violence. According to the women's rights NGO, Union of Women Alternative and Response (UMAR), their husbands or partners killed 47 women during the year. The Commission for Equality and Women's Rights ran 14 safe houses for domestic violence and also had a 24 hours-a-day, 7 days-a-week phone service.

The law provides for criminal penalties in cases of violence by a spouse, and the judicial system prosecuted persons accused of abusing women; however, traditional societal attitudes still discouraged many battered women from using the judicial system. Under the law, perpetrators of domestic violence may be barred from contact with their victims, and, in extreme cases, the police may order the immediate expulsion of a perpetrator from the victim's dwelling. The law defines domestic violence as a public crime, which gives police and the courts more leverage to prosecute such cases, and removes some of the burden on the abused women to file charges, since any interested party has the ability to file charges in domestic violence cases.

The law specifically makes rape, including spousal rape, illegal, and the Government enforced these laws effectively.

Neither prostitutes nor their clients are punishable under the law, and prostitution was common. Under the law, only pimping, brothels, and the registration of prostitutes are illegal. Trafficking in women for the purpose of sexual exploitation continued to be

a problem (see Section 5, Trafficking).

Sexual harassment is defined as a crime if perpetrated by a superior in the workplace. The penalty is 2 to 3 years' imprisonment. As in the case of domestic violence, socially ingrained attitudes discouraged many women from taking advantage of the legal protection available. The Commission on Equality in the Workplace and in Employment, composed of representatives of the Government, employers' organizations, and labor unions, is empowered to examine, but not adjudicate, complaints of sexual harassment; however, it received few such complaints.

The civil code provides for full legal equality for women. As of October, women comprised 51.6 percent of the total population and 51.7 percent of the unemployed. Of the 388,724 students enrolled in higher education in 2003, 56 percent were women. Although women increasingly were represented in business, science, academia, and the professions, their average salaries were about 30 percent less than men's. The Commission for Equality and for Women's Rights continued to press for improved conditions for women.

The Commission on Equality in the Workplace and in Employment reviewed numerous complaints of discrimination by employers against pregnant workers and new mothers, who were protected by law.

Children

The Government was strongly committed to children's rights and welfare; it amply funded systems of public education and medical care. The Government provides 9 years of compulsory, free, and universal education for children through the age of 15, most of whom attend school. The Institute of Solidarity and Social Security, located within the Ministry of Social Security, Family, and Children, was responsible for implementation of the Government's programs for children. The Institute promotes a program to coordinate assistance for children of immigrant families and a program to support early childhood, which included the provision of better childcare facilities. The Government provided preschool education for children age 4 and older upon entry into primary school. The Government provided free or low cost health care for all children until the age of 15.

Abuse of children was a problem, although there was no societal pattern of such abuse. APAV reported 310 cases of crimes against minors (under 18) during the year, primarily involving domestic violence.

Following high-profile investigations and court proceedings that began in 2002 related to a pedophilia operation at "Casa Pia," a children's home that has approximately 4,600 children in its care in Lisbon, the trial involving 8 defendants began on November 25. The defendants faced charges ranging from procuring and rape to homosexual acts with adolescents and sexual abuse of minors. There were 13,000 pages of files and 790 witnesses scheduled to testify. Charges were based on accusations by 17 young people born between 1984 and 1988 (between the ages of 12 and 16 when they were reportedly abused in 1999 and 2000), as well as by 29 youngsters born between 1983 and 1991 (ages 8 to 16 when the abuse allegedly occurred).

Trafficking of children for sexual exploitation and forced labor remained a problem (see Section 5, Trafficking).

Trafficking in Persons

The law prohibits trafficking in persons; however, there were reports that persons were trafficked to, from, or within the country. The law also criminalizes the trafficking of children under 16 years of age for the purpose of sexual exploitation. Each law that can be applied to traffickers (such as facilitating the illegal entry of persons, employing an illegal immigrant, false documentation, extortion, fraud, and sexual exploitation) carries a penalty of between 1 and 8 years' imprisonment. By citing the violation of multiple provisions, judges have handed down longer sentences.

The Government assisted other countries with international investigations of trafficking. After helping to develop a new EUROPOL organized crime database, Portugal, Spain, Italy, and Germany increasingly shared and received information as they worked together in an effort to combat trafficking. The Immigration Service (SEF) implemented 2003 anti trafficking legislation and significantly increased trafficking investigations. The length of sentences for those convicted of trafficking related offenses, such as kidnapping, recruiting illegal workers, pimping, and extortion also were on the increase, in many cases reaching 11 to 15 years' imprisonment.

In a case with possible trafficking implications, the Government was prosecuting eight public figures in connection with an organized pedophile ring operating out of an orphanage in Lisbon (see Section 5, Children).

The country is a destination for men and women trafficked from Ukraine, Moldova, Russia, Romania, and Brazil for the purposes of forced labor and sexual exploitation. There were no reports or suspected cases of immigrant children trafficked for sexual exploitation; however, Romanian minors were often used as street beggars. Some trafficking victims were transited through the country to other European countries. Most trafficked persons were Eastern European males who ended working in construction or in other low-wage industries, such as textile manufacturing, woodworking, metalworking and marble cutting. Some trafficked women (mostly from Eastern Europe and Brazil) worked as prostitutes. Trafficked persons usually lived in hiding in poor conditions, often with little or no sanitation facilities and in cramped spaces. Some trafficked workers were not paid at all and some were "housed" within the factory or construction site. Moldovan, Russian, and Ukrainian organized crime groups reportedly

conducted most of the trafficking of Eastern Europeans. The traffickers frequently demanded additional payments and a share of earnings following their victims' arrival in the country, usually under threat of physical harm. They often withheld the identification documents of the trafficked persons and threatened to harm family members who remained in the country of origin.

The Government expanded its assistance to immigrants, including victims of trafficking. New awareness by authorities has led to a clear distinction by the Government between trafficking and immigration crimes, allowing trafficking victims to receive adequate protection. The Government may refer victims to NGOs for short- and long-term assistance and may provide short or long-term residency for victims willing to cooperate with law enforcement. The government's High Commissioner for Migration and Minorities is responsible for coordinating assistance to immigrants, including trafficking victims. A large percentage of those assisted were provided employment and legalization of status; others were repatriated.

During the year, the Government targeted information campaigns toward immigrant populations and in source countries vulnerable to exploitation and trafficking. The Government also placed immigration liaison officers in prominent source countries.

Persons with Disabilities

There was no discrimination against persons with disabilities in employment, education, access to health care, or the provision of other state services. The law mandates access to public buildings for such persons, and the Government enforced these provisions in practice; however, no such legislation covers private businesses or other facilities.

National/Racial/Ethnic Minorities

The principal minority groups were immigrants, legal and illegal, from the country's former African colonies, Brazil, and Eastern Europe. Approximately 500,000 legal immigrants lived in the country, representing approximately 5 percent of the population. The country also had a resident Roma population of approximately 50,000 persons.

The law permits victims and anti-racism associations to participate in race-related criminal trials by lodging criminal complaints, retaining their own lawyers, and calling witnesses. Anti-racism laws prohibit and penalize racial discrimination in housing, business, and health services, and provide for the creation of a Commission for Equality and Against Racial Discrimination (CERD) to work alongside the High Commissioner for Immigration and Ethnic Minorities.

In its 2002 report, the European Commission Against Racism and Intolerance (ECRI), acknowledged many positive steps taken by the Government to counter racism, including: adopting a law prohibiting racial discrimination; launching activities promoting the integration of immigrant and Roma communities in education and work; raising human rights awareness among police officers and judges; and giving CERD competency to examine individual applications. However, ECRI recommended that the authorities take further action to combat racism and intolerance more effectively in a number of areas. In response to these recommendations, the Government implemented concrete measures, such as: Including discussions on dealing with members of minority groups in law enforcement training sessions; organizing teachers' seminars on multiculturalism and diversity; increasing by 54 percent financial assistance to immigrant organizations; and distributing books and brochures among public organizations and immigrant associations to raise awareness concerning the fight against racism and intolerance.

Section 6 Worker Rights

a. The Right of Association

The Constitution provides workers with the right to form or join unions without previous authorization or excessive requirements, and they exercised this right in practice. Approximately 35 percent of the total workforce was unionized.

b. The Right to Organize and Bargain Collectively

The law allows unions to conduct their activities without interference, and the Government protected this right in practice. The right to organize and bargain collectively was recognized and exercised freely in practice. The law provides for the right to strike, and workers generally exercised this right in practice. However, should a long strike occur in an essential sector such as health, energy, or transportation, the Government may order the strikers back to work for a specific period. The Government rarely has invoked this power. Police officers and members of the armed forces may not strike legally, but they have unions and recourse within the legal system.

There are no export processing zones.

c. Prohibition of Forced or Compulsory Labor

The law prohibits forced and compulsory labor, including by children; however, there were reports that such practices occurred (see Section 5, Trafficking).

d. Prohibition of Child Labor and Minimum Age for Employment

The minimum working age is 16 years. There were instances of child labor, but the overall incidence was small and was concentrated geographically and by sector. The greatest problems were reported in Braga, Porto, and Faro, and tended to occur in the clothing, footwear, construction, and hotel industries.

In 2001, the Government estimated that 46,717 children on the mainland engaged in some form of economic activity, of whom 40,001 were unpaid family workers and 6,716 worked for third parties. Of those children engaged in economic activity, 86.2 percent were attending school. Most children engaged in economic activity come from the northern (57.7 percent) and central (26 percent) regions of the country. The agricultural sector employed the most children, followed by commerce, manufacturing, hotel and catering, and construction. Of those children who worked, the majority worked 1 to 3 hours per day, 1 to 2 days per week; however, some commonly worked 6 to 7 days per week.

The Government's principal body addressing, monitoring, and responding to reports of child labor is the Plan for the Elimination of Exploitation of Child Labor (PETI). The Ministry of Social Security, Family, and Children is responsible for enforcing the child labor laws, and it did so effectively.

e. Acceptable Conditions of Work

The monthly minimum wage, which covers full-time workers as well as rural workers and domestic employees ages 18 and over, was approximately \$496.27 (374.70 euros). Along with widespread rent controls and basic food and utility subsidies, the minimum wage afforded a decent standard of living for a worker and family. Most workers received higher wages, with the CGTP estimating an average monthly salary of approximately \$853 (682 euros), excluding public servants.

The maximum legal workday is 10 hours, and the maximum workweek is 40 hours. There is a maximum of 2 hours of paid overtime per day and 200 hours of overtime per year, with a minimum of 12 hours between workdays. The Ministry of Social Security, Family, and Children monitored compliance through its regional inspectors, and it did so effectively.

Employers legally are responsible for accidents at work and are required by law to carry accident insurance. The General Directorate of Hygiene and Labor Security develops safety standards in line with European Union standards, and the General Labor Inspectorate is responsible for their enforcement; however, the Inspectorate lacked sufficient funds and inspectors to combat the problem of work accidents effectively. Workers injured on the job rarely initiated lawsuits. Workers have the right to remove themselves from situations that endanger health or safety without jeopardy to their employment, and the authorities effectively enforced this right.